THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P. Nos.22040, 22049, 22059 AND 22074 of 1998

DATED: 03.12.2007

W.P.No.22040 of 1998
Between:-

The Institute of Chartered Financial Analysts of India rep. By its Registrar.

...

PETITIONER
AND

The Labour Court-I, rep. By its Presiding Officer, Hyderabad & another.

...

RESPONDENTS

W.P.No.22049 of 1998
Between:-

The Institute of Chartered Financial Analysts of India rep. By its Registrar.

...

PETITIONER
AND

The Labour Court-I, rep. By its Presiding Officer, Hyderabad & another.

...

RESPONDENTS

W.P.No.22059 of 1998
Between:-

The Institute of Chartered Financial Analysts of India rep. By its Registrar.

...

PETITIONER
AND

The Labour Court-I, rep. By its Presiding Officer, Hyderabad & another.

W.P.No.22074 of 1998
Between:-

The Institute of Chartered Financial Analysts of India rep. By its Registrar.

...
PETITIONER
AND

The Labour Court-I, rep. By its Presiding Officer, Hyderabad & another.

...
RESPONDENTS

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P. Nos.22040, 22049, 22059 AND 22074 of 1998

COMMON ORDER:

Heard Sri A.K.Jaya Prakash Rao, learned counsel for the petitioner and Ms P.A.Kamaleswari, learned counsel for the workmen.

In W.P.No.22040 of 2007, the order of resignation of an employee was the subject matter of challenge before the Labour Court alleging that the letter of resignation was obtained by coercion and that his services were retrenched contrary to Section 25-F of the Industrial Disputes Act, 1947 (for short 'the Act'). In the other writ petitions, the termination orders were challenged before the Labour Court on the ground of violation of Section 25-F of the Act.

The Labour Court, while accepting the contention urged on behalf of the workmen that their services, had, indeed been retrenched contrary to Section 25-F of the Act, passed an award setting aside the termination orders and directed reinstatement of the workmen into service with all attendant benefits, continuity of service and back wages.

While Sri A.K.Jaya Prakash Rao, learned counsel for the

petitioner, would contend that, even after the award was passed and despite a letter being issued by the petitioner-employer asking the workmen to join duty, none of them had joined duty, except for one employee, who also worked for 15 days and left thereafter.

Events subsequent to passing of the award are not matters for consideration under certiorari proceedings wherein examination is confined only to the award of the Labour Court-I, Hyderabad. As such, this contention does not merit examination in these writ petitions. However, there is substantial force in the submission of Sri A.K.Jaya Prakash Rao, learned counsel for the petitioner, that while the Labour Court may have been justified in directing reinstatement, it should not, as a matter of course, have directed payment of full back wages and that several factors, including whether the workmen were employed elsewhere, the period for which they worked etc. were required to be considered. Learned counsel would submit that, let alone evidence being let in by the workmen, there is not even a plea in the applications filed under Section 2-A(2) of the Act with regards their entitlement for back wages.

Ms P.A.Kamaleswari, learned counsel for the workmen, would, however, dispute this contention and would submit that a specific contention had been raised by the workmen with regards their not being employed elsewhere in their claim petition filed before the Labour Court.

In **J.K.Synthetics Ltd v. K.P.Agrawal**[1], the Supreme Court held that whenever Courts or Tribunals direct reinstatement, they should apply their judicial mind to the facts and circumstances to decide whether “continuity of service” and/or “consequential benefits” should also be directed and, even in cases where the Courts find it necessary to award back wages, the question which would arise is whether back wages should be

awarded in full or in part.

In the present case, except directing reinstatement of the workmen with back wages and attendant benefits, the impugned award does not disclose application of mind on the question whether back wages and/or consequential benefits ought to have been granted and if so, whether grant of back wages should be in full or in part. It is, therefore, appropriate that the matter be remanded back to the Tribunal only to examine the question relating to payment of back wages. It is made clear that, in so far as the challenge to award directing reinstatement of the workmen is concerned, the contentions urged by the petitioner is rejected and the award, in so far as the workmen were directed to be reinstated, shall not be reopened by the Labour Court which will confine its examination only to the question of payment of back wages and decide, after hearing both sides, as to whether back wages should be awarded at all and, if so, whether payment of back wages should be in full or in part. Since the dispute relates to the year 1997 and more than a decade has elapsed since then, it is appropriate that the entire exercise in this regard shall be completed within a period of four months from the date of receipt of a copy of this order.

The Writ Petitions are accordingly disposed of. No order as to costs.

_____

03.12.2007

usd

[1] 2007(2) SCC 433